



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

Curtis Clogston, MD

**Respondent Name**

XL Specialty Insurance Company

**MFDR Tracking Number**

M4-14-2986-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

May 29, 2014

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Due to lack of compensation by Sedgwick CMS, a Medical Dispute Resolution is being filed for payment of CPT code 99367. On 10/10/2013, Dr. Clogston visited with the injured employee to discuss the current work injury, as well as, to review the DD report that had been recently issued. During the visit, Dr. Clogston reviewed the DD report and discussed plan of care with the Nurse Case Manager Mrs. De La Rosa. This was indicated in the medical notes. When the carrier denied CPT 99367 on the initial bill due to bundling, we resent the claim back for reconsideration explaining that modifier 25 had been appended to CPT 99215. Furthermore, we explained that according to NCCI edits that these two codes were actually mutually exclusive of each other. The Medicare NCCI edits, which we have provided for review, did not show this combination pair. Therefore, these charges should not have been denied, and should have been reimbursed at the requested rate."

**Amount in Dispute:** \$213.00

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Please see the EOBs. The Texas Labor Code requires reimbursement for all medical expenses to be fair and reasonable and be designed to ensure the quality of medical care and to achieve effective medical cost control. TEX. LABOR CODE Section 413.011(d). Subject to further review, the carrier asserts that it has paid according to applicable fee guidelines and challenges whether the disputed charges are consistent with applicable fee guidelines."

**Response Submitted by:** Flahive, Ogden & Latson, Post Office Drawer 201329, Austin, TX 78720

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 10, 2013	99367 - Team Conference without patient by physician	\$213.00	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.204 (e) provides the billing and reimbursement information for case

management/team conferences.

3. 28 Texas Administrative Code §134.203 sets out the procedures for billing and reimbursement of non-Division specific services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 97 – Payment adjusted because the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
  - 243 – The charge for this procedure was not paid since the value of this procedure is included/bundled within the value of another procedure performed.
  - OA – The amount adjusted is due to bundling or unbundling of services.
  - W3 – Additional payment made on appeal/reconsideration.
  - 193 – Original payment decision is being maintained. This claim was processed properly the first time

### **Issues**

1. Are the requested services bundled according to 28 Texas Administrative Code §134.203?
2. Is the requestor entitled reimbursement?

### **Findings**

1. 28 Texas Administrative Code §134.203 (b) states, “For coding, billing, reporting, and reimbursement of professional medical services, Texas workers’ compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.”  
A review of Addendum B – Relative Value Units and Related Information Used in Determining Medicare Payments for CY2013, found in CMS-1590-FC finds that CPT Code 99367 is listed with status B, defined in Addendum A as “*Bundled code*. Payments for covered services are **always** bundled into payment for other services, which are not specified” [bold emphasis added]. Therefore, the billed CPT Code 99367 is bundled into the other codes billed with it – 99215 and 99080.
2. The requestor argues that CPT 99367 should be payable, as the requestor added modifier 25 to CPT Code 99215, indicating that it is a significant, separately identifiable evaluation and management service. However, CMS Coding Rules state, “Under OPPS, modifier may be used only with E/M visit codes (with status indicator V) within the following code ranges: 92002-92014, 99201-99285, 99431, G0101, G0175, G0245, G0246, G0344 G0380-G0384.” Further, the submitted documentation indicates that the conference occurred during the office visit with the injured employee. Therefore, the modifier is not supported. No further reimbursement is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

## **ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

<hr/>	<b>Laurie Garnes</b> Medical Fee Dispute Resolution Officer	<hr/> January 8, 2015
Signature		Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**